IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH S. HOFFMAN,	:	
Plaintiff,	:	CIVIL ACTION NO. 01-CV-5622
	:	
v.	:	
	:	
CARMEN THOME, CHARLES H. MARTIN, SANDRA A. MILLER, MICHAEL FITZPATRICK, and COUNTY OF BUCKS,	:	
Defendants.	:	
ROBERT R. BELZ,	:	
Plaintiff,	:	CIVIL ACTION NO. 01-CV-5623
	:	
v.	:	
	:	
CARMEN THOME, CHARLES H. MARTIN, SANDRA A. MILLER, MICHAEL FITZPATRICK, and COUNTY OF BUCKS,	:	
Defendants.	:	

MEMORANDUM

BUCKWALTER, J. November 4, 2002

Presently before the Court are Defendants' Motion for Summary Judgment, Plaintiffs' Brief Contra Defendants' Motion for Summary Judgment, Defendants' Reply Brief in Further Support of their Motion for Summary Judgment, Defendants' Supplemental Brief in Further Support of their Motion for Summary Judgment and Plaintiffs' Supplemental Brief Contra Defendants' Motion for Summary Judgment. For the reasons stated below, Defendants' Motion for Summary Judgment is **DENIED**.

I. BACKGROUND

Defendant County of Bucks ("County") is a municipal public employer with offices in Doylestown, Pennsylvania. Defendant Carmen Thome ("Thome") is the County Director of Human Resources. Defendants Charles Martin ("Martin"), Michael Fitzpatrick ("Fitzpatrick") and Sandra Miller ("Miller") are County Commissioners. Defs.' Br. in Supp. of Mot. for Summ. J. at 3.

Plaintiffs Robert R. Belz ("Belz") and Kenneth S. Hoffman ("Hoffman") (collectively "Plaintiffs") were employed by the County in the Information Technology ("IT") Department until their discharge on September 26, 2000. Until his dismissal, Belz worked as the Administration/Operations Manager of the County's IT Department. Belz and Heinz Heiduk, the Application Systems Manager/Assistant Director, held the two highest positions in the IT Department. Five managers within the IT Department reported directly to Belz, one of whom was Hoffman. Hoffman was the Network Engineer in the IT Department. Defs.' Br. in Supp. of Mot. for Summ. J. at 3. The parties dispute whether Hoffman's role was supervisory. Defendants' contend that he directed the work of several technicians, including Tony Keiper ("Keiper"), Pete Batschelet ("Batschelet"), Jim Davis ("Davis"), Steve Skinner ("Skinner"), Fred Koeble ("Koeble") and Scott Wilson ("Wilson"). Defs.' Br. in Supp. of Mot. for Summ. J. at 4. Plaintiff's allege that Hoffman was not a supervisor and was only occasionally assigned to work with certain technicians, including Skinner and Davis. Pls.' Br. Contra Mot. for Summ. J. at 3.

Defendants allege that, in September of 2000, Thome's assistant, Meredith Dolan, received complaints about Hoffman from IT employees Keiper and Tim Smith ("Smith"). These employees complained that Hoffman ordered them to ignore orders from Staffmasters'

employees.[1] The employees also complained that Hoffman screamed, yelled and used foul language around the office. Defs.' Br. in Supp. of Mot. for Summ. J. at 5.

Dolan informed Thome of these complaints and Thome directed Dolan to conduct an investigation to determine whether Hoffman's behavior violated the County's Non-Discrimination and Harassment Policy by creating a hostile work environment within the IT Department. Defs.' Br. in Supp. of Mot. for Summ. J. at 5. The County's Harassment Policy reads:

> The County of Bucks is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, the County expects that all relationships among persons in County government will be business-like and free of bias, prejudice and harassment.

County of Bucks, Human Resources' Policies for all County Employees, § 005.1. The policy goes on to define the types of harassment as sexual harassment or

> any verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, citizenship or any other characteristic protected by law . . . and that:
> (a) has the purpose or effect of creating an intimidating, hostile or offensive work environment;
> (b) has the purpose or effect of unreasonably interfering with an individual's work performance; or
> (c) otherwise adversely affects an individual's employment opportunities.

County of Bucks, Human Resources' Policies for all County Employees, § 005.1.

1. Staffmasters is an outside consultant the County hired to run the IT Department, a decision with which both Hoffman and Belz openly disagreed.

During Dolan's investigation, it is unclear exactly how many interviews were conducted and what the substance of these interviews were. At some interviews, Dolan took rough notes, and some employees submitted written reports regarding Plaintiffs' behavior. Dolan's dep. at 32-33, 39. Defendants contend that, after investigation, Dolan determined there was significant evidence that Hoffman had violated the Harassment Policy and that Belz had not taken action to control Hoffman's behavior. Thome's dep. at 85-86. Defendants present evidence that Hoffman used profane language and inappropriate hand gestures toward other employees. Defendants believe that certain employees stopped working for the County because Hoffman made work unbearable with his intimidating, profane and hostile conduct. Defs.' Br. in Supp. of Mot. for Summ. J. at 6-10. Defendants also claim that Hoffman was aware of the County's Harassment Policy because he attended a meeting at which the County's anti-harassment/hostile work environment was discussed. Defs.' Br. in Supp. of Mot. for Summ. J. at 4. Despite this knowledge, Defendants allege that Hoffman still acted in violation of the policy.

Plaintiffs, however, provide evidence that Hoffman's behavior was similar to that of all others in the office, and that if anything which could be perceived as inappropriate was ever said, it was done in a joking manner. Hoffman dep. at 70-72; Pls.' Br. Contra Mot. for Summ. J. at 12. Plaintiffs allege that several employees who were consistently in contact with Hoffman never witnessed him yelling or using profane language, they were not aware that he engaged in any intimidating behavior, and they believed he got along with the other employees in the IT Department. Pls. Br. Contra Mot. for Summ. J. at 8-9. Hoffman insists that he never attended the meeting regarding the County's Harassment Policy because he was not considered management at the time the meeting took place. Plaintiffs also contend that Belz was never

aware of Hoffman behaving inappropriately if in fact such conduct occurred, which they deny. Pls.' Br. Contra Mot. for Summ. J. at 12.

On September 21, 2000, Thome met with Belz to discuss the employees' complaints about Hoffman which Dolan collected during the investigation. Thome informed Belz that, as Hoffman's supervisor, it was his responsibility to maintain a professional work environment. Defendants contend that Thome asked Belz whether he had ever heard Hoffman yelling or using foul language around the office and that Belz responded that he had. Thome asked Belz to submit a written response to their meeting, confirming or denying the accusations against him. Thome also told Belz that he may be terminated depending upon his response. Defs. Br. in Supp. of Mot. for Summ. J. at 10.

Similarly, on September 22, 2000, Thome met with Hoffman to inform him that allegations had been made against him and that Dolan had investigated the situation. Upon discussing the matter with Hoffman, Thome asked that he too provide a written response to their meeting and informed Hoffman that he may be terminated depending upon his response. Defs. Br. in Supp. of Mot. for Summ. J. at 10-11. Both Hoffman and Belz submitted responses denying the allegations. Hoffman denied engaging in the alleged behavior which created a hostile work environment. Belz denied being aware that a hostile work environment existed or that he was ever present when Hoffman said anything which could be construed as creating a hostile work environment. Defs. Br. in Supp. of Mot. for Summ. J. at 11-12.

Upon receipt of their responses, Hoffman and Belz were terminated from employment with the County. Defendants allege that the decision to terminate was based on four factors: (1) several employees provided statements claiming that Hoffman created a hostile work

environment; (2) Belz admitted that he knew Hoffman had created such an environment; (3) Belz and Hoffman were in managerial positions; and (4) neither Belz nor Hoffman showed remorse or accepted responsibility for their actions. Defs.' Br. in Supp. of Mot. for Summ. J. at 12.

Belz and Hoffman allege that these factors were not the basis for their termination. Rather, Plaintiffs believe they were terminated because they both openly criticized the County's decision to hire Staffmasters and the way Staffmasters performed its duties. Belz alleges that, on March 24, 2000, he informed the Commissioners and other County officials that it was not in the County's best interest to hire Staffmasters as a management consultant to the IT Department. Belz informed the officials that hiring Staffmasters was not cost effective, and current members of the IT Department were qualified to do all the tasks Staffmasters proposed to do. On different occasions, Hoffman claims that he too made similar comments to County officials indicating his discontent with Staffmasters. Pls.' Br. Contra Mot. for Summ. J. at 4-5. Defendants contend that Thome was unaware of Plaintiffs' complaints, therefore, this criticism could not be the reason for Plaintiffs' termination. Defs.' Br. in Supp. of Mot. for Summ. J. at 22; Defs.' Reply Br. in Further Supp. of Mot. for Summ. J. at 4-5.

Additionally, Hoffman believes he was also terminated for political reasons. Hoffman alleges that he was asked by Phyllis Mekel ("Mekel"), Martin's secretary, whether he would support Katherine Watson, a Republican candidate for Pennsylvania State Representative, and Ben Mackell, another candidate for office. Hoffman informed Mekel that he refused to support either of these candidates. Pls.' Br. Contra Mot. for Summ. J. at 6. Defendants argue that the individuals responsible for terminating Hoffman were never made aware of this conversation. Defendants contend that Hoffman's termination cannot be based on information

which these decision-makers were not given, so this speech cannot be the reason for Hoffman's dismissal. Defs.' Reply Br. in Further Supp. of Mot. for Summ. J. at 7.

Plaintiffs claim that it was their speech regarding Staffmasters and Hoffman's refusal to support certain candidates, and not the hostile work environment, which were the causes for their dismissal. Plaintiffs allege that they were terminated very shortly after these incidents, whereas many of the incidents which Defendants allege caused the creation of a hostile work environment occurred years ago. Hoffman dep. at 68-9; Pls.' Br. Contra Mot. for Summ. J. at 22. As such, Plaintiffs have brought a First Amendment Retaliation claim and a Fourteenth Amendment Equal Protection claim against Defendants.

II. STANDARD OF REVIEW

A motion for summary judgment will be granted where all of the evidence demonstrates "that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law". Fed. R. Civ. P. 56(c). A dispute about a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Since a grant of summary judgment will deny a party its chance in court, all inferences must be drawn in the light most favorable to the party opposing the motion. U.S. v. Diebold, Inc., 369 U.S. 654, 655 (1962).

The ultimate question in determining whether a motion for summary judgment should be granted, is "whether reasonable minds may differ as to the verdict." Schoonejongen v. Curtiss-Wright Corp., 143 F.3d 120, 129 (3d Cir. 1998). "Only disputes over facts that might

affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." Anderson, 477 U.S. at 248.

III. DISCUSSION

A. First Amendment Retaliation Claim

A public employee's First Amendment Retaliation claim in which he alleges that he was terminated because of his speech is subject to a three-step analysis. Swineford v. Snyder County, 15 F.3d 1258, 1270 (3d Cir. 1994). First, a plaintiff must prove he was engaged in protected activity under the First Amendment. Id. Second, Plaintiffs must show the alleged speech was "a substantial or motivating factor" in the alleged retaliatory termination. Id. Finally, if a plaintiff can meet these first two burdens, a defendant can defeat the claim by showing that he would have terminated the public employee even in the absence of the protected activity. Id.

1. Protected Speech

In order to qualify as protected speech under the First Amendment, the alleged speech must satisfy the Pickering balancing test. Green v. Philadelphia Housing Auth., 105 F.3d 882, 885 (3d Cir. 1997), *citing* Pickering v. Board of Educ. of Twp. High Sch. Dist. 205 Will County, 391 U.S. 563 (1968). First, the speech must be "on a matter of public concern." Green, 105 F.3d at 885, *citing* Watters v. City of Philadelphia, 55 F.3d 886, 892 (3d Cir. 1995). Second, "the public interest favoring [the plaintiff's] expression 'must be outweighed by any injury the speech could cause to the interest of the state as an employer in promoting the efficiency of the public services it performs through its employees'." Green, 105 F.3d at 885, *quoting* Watters, 55 F.3d at 892.

A public employee's speech qualifies as a "matter of public concern" if it can be "fairly considered as relating to any matter of political, social, or other concern to the community." Green, 105 F.3d at 885-6. Principle in this determination is whether the speech relates to the process of self-governance. Azzaro v. County of Allegheny, 110 F.3d 968, 977 (3d Cir. 1997). The court is to look at the content, form and context of a statement to determine whether it is of public concern. Id. at 976.

If the court finds that the speech is a matter of public concern, then the court must weigh the employee's personal interest in speaking about the matter and the value to the community in allowing the individual to speak against the government's interest in promoting efficiency in the workplace. Watters, 55 F.3d at 895. The government's interest may be promoted above the individual's interest if "the statement impairs discipline by superiors or harmony among co-workers, has detrimental impact on close working relationships for which personal loyalty and confidence are necessary, or impedes the performance of the speaker's duties or interferes with the regular operation of the enterprise." Rankin v. McPherson, 483 U.S. 378, 388 (1987). The government employer does not have to show actual disruption by the alleged speech. It need only show that there is significant potential for disruption because of the speech. Watters, 55 F.3d at 896.

The question of whether speech is protected is a question of law to be decided by the court. Versarge v. Twp. of Clinton, 984 F.2d 1359, 1364 (3d Cir. 1993); Zamboni v. Stamler, 847 F.2d 73, 77 (3d Cir. 1988). On numerous occasions, the Third Circuit has held that a public employee's criticism of the internal operations of his place of public employment is a matter of public concern. Zamboni, 847 F.2d at 78. See also Rode v. Dellarciprete, 845 F.2d 1195 (3d

Cir. 1988), and Czurlanis v. Albanese, 721 F.3d 98 (3d Cir. 1983). Although the Third Circuit has held this way when the criticism has been made publically, the Supreme Court has held that a public employee who only expresses his views privately can still be entitled to constitutional protection. Givhan v. Western Consolidated Sch. Dist. et al., 439 U.S. 410, 413 (1979). Speech concerning the manner in which a government office is functioning is a matter of public concern. Edmundson v. Borough of Kennett Square, 881 F.Supp. 188, 193 (E.D. Pa. 1995). Furthermore, speech on a topic which may interest taxpayers is also a matter of public concern. Id. at 195.

In the instant matter, Plaintiffs allege that they criticized the County's hiring of Staffmasters because it was not cost effective and Staffmasters' employees were inefficient. Belz Compl. at ¶ 23; Hoffman's Compl. at ¶ 19. Therefore, hiring Staffmasters to run the IT Department was "not . . . in the best interest of the County." Belz Dep. at 56, 62; Belz Compl. at ¶ 23. Defendants dispute whether this was actually the reason for Plaintiffs not wanting Staffmasters to run the IT Department. Defendants contend that Hoffman admits his concern was not with Staffmasters but with the fact that Belz and Heiduk would no longer be running the IT Department. Defs.' Reply Br. at 15. However, personal interest in alleged protected speech is not determinative that such speech is not a matter of public concern. It is merely one factor to consider in assessing the character of the speech. Zamboni, 847 F.2d at 78. Taking the evidence in the light most favorable to Plaintiffs, this Court must also consider the possibility that the criticism was in fact made because Plaintiffs believed hiring Staffmasters was not in the best interest of the County. If Plaintiffs believed taxpayer funds were not being utilized in the most efficient manner, their speech involved the functioning of a government office and thus, is a matter of public concern.

As for Hoffman's speech related to his refusal to support particular political candidates, such speech is a matter of public concern because it relates to a political matter. See Green, 105 F.3d 886. In Connick v. Myers, the Supreme Court held that the portion of a questionnaire circulated throughout a district attorney's office asking whether the employees felt pressured to work on political campaigns dealt with a matter of public concern. 461 U.S. 138 (1983). Support for a particular political candidate or campaign goes to the heart of our democratic system of self-governance. See Azzaro, 110 F.3d at 977. As such, Hoffman's discussion with Mekel is a matter of public concern.

Given that Plaintiffs' speech is a matter of public concern, it is also for this Court to determine whether the Pickering balancing test favors Plaintiffs' right to engage in such speech over Defendants' right to terminate Plaintiffs. Watters, 55 F.3d at 892; Pickering, 391 U.S. at 568. Defendants contend that Plaintiffs' criticism of Staffmasters, and their refusal to go along with all of the orders given by Staffmasters' employees, caused a significant potential for workplace disruption, and therefore cannot be considered protected speech. Plaintiffs believe their right to engage in such speech and the value to the community in allowing them to engage in such speech strongly outweighs the government's interest in efficiency, because Plaintiffs do not believe their comments created any disturbance or potential for disturbance in workplace productivity. Defendants disagree because they believe it was Plaintiffs' criticism which caused Keiper and Smith to complain to Dolan. Keiper and Smith claim to have been confused about whose orders to follow because they were receiving conflicting instructions from Staffmasters employees and Plaintiffs. Defs.' Br. in Supp. of Mot. for Summ. J. at 5.

It is true that confusion among the workers within the IT Department could create minor lapses in efficiency. However, Plaintiffs' criticism of Staffmasters does not appear to have been so disruptive so as to impair any managers' ability to discipline employees. Nor does it appear to have disrupted harmony among co-workers, effected any close relationships within the office or interfered with regular office operations. See Rankin, 483 U.S. at 388. As such, Plaintiffs' interest in questioning the internal operations of the IT Department outweighs the government's interest in workplace efficiency, and Plaintiffs' speech is protected speech under the First Amendment.

As for Mekel's political discussion with Hoffman, clearly the rights of Hoffman to refuse political support outweigh any government interest in promoting workplace efficiency. Accordingly, Hoffman's political speech is also protected speech. Accordingly, all of the speech engaged in by Plaintiffs upon which they claim their termination was based, is protected speech. Therefore, it is necessary to evaluate the final two steps in a retaliation claim analysis - whether the speech was a substantial and motivating factor in Plaintiffs' dismissal and whether Defendants would have dismissed Plaintiffs even in the absence of such speech.

2. Substantial or Motivating Factor

Once speech is classified as protected speech under the First Amendment, a plaintiff must demonstrate that this speech was a substantial or motivating factor for the defendant's retaliatory action, in order for the plaintiff to establish a First Amendment retaliation claim. Richardson-Freeman v. Norristown Area Sch. Dist., No. 00-2794, 2001 U.S. Dist. LEXIS 2467, at *16 (E.D. Pa. Mar. 12, 2001). "Where a reasonable inference can be drawn that an employee's speech was at least one factor considered by an employer in deciding whether to take

adverse action against the employee, the court should leave the question of whether the speech was a motivating factor in that determination to the jury." Sokol v. City of Reading, No. 99-111, 2000 U.S. Dist. LEXIS 8735, at *7-8 (E.D. Pa. May 25, 2000).

Plaintiffs allege that both Hoffman's and Belz's criticism of Staffmasters and Hoffman's refusal to support certain political candidates were the substantial and motivating factors for their dismissal. Plaintiffs rely on the proximity in time of their statements to their dismissals, among other things, as the support for this conclusion. Hoffman dep. at 68-9; Pls.' Br. in Supp. of Mot. for Summ. J. at 22. Defendants allege that Plaintiffs only provide conclusions rather than facts to support their claim that Defendants knew of their alleged protected conduct when they made the decision to terminate Hoffman and Belz. Thome claims that she was not aware of Plaintiffs' criticism of Staffmasters. Defendants also allege that nobody was told about the private conversation between Hoffman and Mekel regarding the political campaigns. Therefore, Defendants claim that it is impossible for these comments to be the basis for Plaintiffs' termination. Defs.' Reply Br. in Further Supp. of Mot. for Summ. J. at 7.

It is not clear whether Plaintiffs were dismissed for their criticism of Staffmasters and Hoffman's refusal to give political support. There are several questions of material fact which are appropriate for a jury to decide. Accordingly, summary judgment cannot be granted for Plaintiffs' First Amendment Retaliation claim.

3. Dismissal in the Absence of the Protected Speech

If it has been established that a plaintiff's speech is protected under the First Amendment and this protected speech was a substantial or motivating factor in the alleged retaliatory dismissal, the government employer is given the opportunity to defeat the retaliation claim by showing that it would have dismissed the plaintiff even in the absence of this protected speech. Swineford, 15 F.3d at 1270; Givhan, 439 U.S. at 416. Here, Defendants allege that the decision to terminate would have been made even if Plaintiffs had not criticized Staffmasters and Hoffman had not refused to give political support. Defendants allege that Plaintiffs' speech did not influence their decision since they were unaware of the relevant speech at the time they decided to terminate Plaintiffs. Defs.' Reply Br. in Further Supp. of Mot. for Summ. J. at 7. Plaintiffs dispute this fact and believe that Defendants must have been aware of their speech given that their dismissal occurred so soon after their comments were made. Pls.' Br. Contra Mot. for Summ. J. at 22. Defendants claim Plaintiffs would have been terminated despite their alleged protected speech because they violated the County's Harassment Policy. Defs.' Br. in Supp. of Mot. for Summ. J. at 2. Plaintiffs assert that they could not have been terminated pursuant to this policy because it only covers harassment based on "race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, citizenship or any other characteristic protected by law." County of Bucks, Human Resources' Policies for all County Employees, § 005.1. Since Plaintiffs' alleged behavior does not involve harassment of any of these types, Plaintiffs believe they would not have been dismissed absent their protected speech.

Since there numerous facts upon which the parties disagree, material questions of fact exist. As it is for the jury to determine whether Plaintiffs' protected speech was a substantial

and motivating factor in Plaintiffs' dismissal, it is also for the jury to determine whether Defendants' would have terminated Plaintiffs despite such speech. Accordingly, summary judgment is not appropriate in this case for Plaintiffs' retaliation claim.

B. Fourteenth Amendment Equal Protection Claim

An Equal Protection claim can be brought under the Fourteenth Amendment by a "class of one where the plaintiff alleges [he] has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment." Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000). The Equal Protection Clause allows for a broad directive that "all persons similarly situated should be treated alike." City of Cleburne v. Cleburne Living Ctr., Inc., 473 U.S. 432, 439 (1985). A classification not based upon fundamental rights nor a suspect classification is not violative of the Equal Protection Clause if there exists a rational relationship between the disparate treatment and some legitimate government purpose. Heller v. Doe, 509 U.S. 312, 319-20 (1993).

Plaintiffs allege that they were terminated from employment with the County's IT Department because Defendants harbored animosity toward them. Pls.' Br. Contra Mot. for Summ. J. at 23. See also Esmail v. Macrane, 53 F.3d 176, 180 (7th Cir. 1995). Plaintiffs believe their criticism of Staffmasters and Hoffman's refusal to give political support triggered Defendants' decision to terminate them. Defendants contend that Hoffman was dismissed because he created a hostile work environment, and Belz was dismissed because, as Hoffman's supervisor, he failed to fulfill his responsibility to reprimand Hoffman for his inappropriate behavior. Defs.' Br. in Supp. of Mot. for Summ. J. at 6. In order to determine whether a rational basis for Plaintiffs' termination exists, the material factual disputes must be resolved by a jury.

Further, Plaintiffs must demonstrate their membership in a particular class so that they may establish claims under the Equal Protection Clause of the Fourteenth Amendment. Accordingly, summary judgment is inappropriate for Plaintiffs' Equal Protection claim.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KENNETH S. HOFFMAN,	:	
Plaintiff,	:	CIVIL ACTION NO. 01-CV-5622
	:	
v.	:	
	:	
CARMEN THOME, CHARLES H. MARTIN, SANDRA A. MILLER, MICHAEL FITZPATRICK, and COUNTY OF BUCKS,	:	
Defendants.	:	
ROBERT R. BELZ,	:	
Plaintiff,	:	CIVIL ACTION NO. 01-CV-5623
	:	
v.	:	
	:	
CARMEN THOME, CHARLES H. MARTIN, SANDRA A. MILLER, MICHAEL FITZPATRICK, and COUNTY OF BUCKS,	:	
Defendants.	:	

ORDER

AND NOW, this 4th day of November, 2002, upon consideration of Defendants' Motion for Summary Judgment, Plaintiffs' Brief Contra Defendants' Motion for Summary Judgment, Defendants' Reply Brief in Further Support of their Motion for Summary Judgment, Defendants' Supplemental Brief in Further Support of their Motion for Summary Judgment and Plaintiffs' Supplemental Brief Contra Defendants' Motion for Summary Judgment, it is hereby **ORDERED** that Defendants Carmen Thome's, Charles H. Martin's, Sandra A. Miller's, Michael Fitzpatrick's and County of Bucks' Motion for Summary Judgment is **DENIED**.

Counsel is directed to contact the Courtroom Deputy for trial scheduling.

It is so ordered.

BY THE COURT:

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RONALD L. BUCKWALTER, J.